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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,999	09/27/2001	Sanaa F. Abdelhadi	AUS920010901US1	2723
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IBM CORPORATION (VE) C/O VOEL EMILE P. O. BOX 162485 AUSTIN, TX 78716			EXAMINER	
			OSMAN, RAMY M	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/964,999	<b>Applicant(s)</b> ABDELHADI ET AL.
	<b>Examiner</b> RAMY M. OSMAN	<b>Art Unit</b> 2457

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 30 July 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-7,10-12,15-17 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5-7,10-12,15-17 and 20-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. This action is responsive to amendment filed on July 30, 2008, where Applicant amended claims 1,2,5,6,7,10,11,12,15,16,17,20, cancelled claims 3,4,8,9,13,14,18,19, and added new claims 21-24. Claims 1,2,5,6,7,10,11,12,15,16,17,20-24 remain pending.

### ***Response to Arguments***

2. Applicant has not sufficiently pointed out where the limitations of the new/amended claims are supported in the specification. The “Remarks” section mentions pages and lines of the specification that when referenced to the 9/21/2000 specification do not correspond to the amended/new limitations. (**See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06**) Applicant is requested to provide support for the new/amended claims.

3. Applicant’s arguments, filed 7/30/08, with respect to the rejection(s) of the claims have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of .

### ***Specification***

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 6 contains the limitation “computer readable medium...”. There is no specific mention of “*computer readable* medium” in the specification, and therefore its

statutory scope cannot be ascertained. There is no clear support or antecedent basis for this limitation in the specification.

Applicant is directed to paragraph 37 of the instant application which provides antecedent basis for “data storage medium” but not for “*computer readable* medium”.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 6,7,10,22 and 11,12,15,23** are rejected under 35 U.S.C. 112, second paragraph, as failing to comply with the written description requirement and rendering the claim indefinite. Claim elements using the “means for” preamble are means (or step) plus function limitations that invoke 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function.

Applicant is required to:

- (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or
- (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

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- (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or
- (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP 2181 and 608.01(o).

7. Claims 1,2,5,6,7,10,11,12,15,16,17,20-24 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 (and the other independent claims) mentions the limitation “sending the command for execution by the plurality of remote computer systems” and also the limitation “dispatching said command to the computer systems...”. The claims fail to interrelate these essential elements (MPEP § 2172.01). It is not clear as to why the command is sent twice and how sending a command twice to the same computer systems achieves anything beyond what would be achieved if the command was sent only once. It is also unclear how sending the command twice is supported by the specification and thus renders the claims indefinite.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**9. Claims 1, 6, 11 and 16 rejected under 35 U.S.C. 102(e) as being anticipated by Shaughnessy et al (US Patent No 5,928,325).**

10. ***In reference to claims 1,6,11 and 16,*** Shaughnessy teaches a method, a program product, an apparatus and a system respectively for executing one remote command concurrently on a plurality of remote computer systems comprising the steps of:

entering the remote command on a command line in a local command interface; entering an address for each one of the plurality of remote computer systems in a group section in the local command interface; sending the command for execution by the plurality of remote computer systems; (column 4 lines 38-45 & 59-62, Shaughnessy teaches sending messages/data to a recipient which inherently includes entering the message/data into an interface, and also inherently includes entering recipient addresses. Shaughnessy fails to explicitly teach sending a command for execution. However, sending a command is an obvious variation of sending a message/data. It would have been obvious for one of ordinary skill in the art to modify Shaughnessy by sending a command for the purpose of utilizing remote command execution.)

automatically determining, in response to sending the command for execution, whether each one of the plurality of computer systems is accessible ; (column 5 lines 10-22)

deleting the address of each one of the plurality of computer systems that is determined to be not accessible from the group section; (column 5 lines 18-21, Shaughnessy selects only the available recipients)

dispatching said command to the computer systems that are determined to be accessible in order for the command to be concurrently executed by each one of the computer systems whose address is left in the group section; (column 4 lines 38-45 & 59-62 and column 5 lines 30-37)

Shaughnessy fails to explicitly teach returning a result of the execution of the command by each one of the plurality of computer systems to which the command is dispatched. However, Shaughnessy teaches that messages are sent. It is obvious that messages, such as email messages, that are sent to recipients are usually replied to by the recipients in order to give the sender confirmation. Similarly, it is obvious to one of ordinary skill in the art that a remote command that is executed can also return/reply results to the sender in order to give the sender confirmation of the command or a status of the command.

11. In reference to claims 21-24, Shaughnessy teaches claims 1,6,11,16 above. Shaughnessy fails to disclose where the result is streamed. "Official notice" is taken that data streaming is old and well-known in the art. It would have been obvious for one of ordinary skill in the art to return the result as a data stream if the sending device required some real-time response(s) from the receiver.

12. **Claims 2,7,12 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Shaughnessy (US Patent No 5,928,325) in view of Johnson et al (US Patent No 6,397,245).**

*In reference to claims 2,7,12 and 17,* Shaughnessy teaches the a method, a program product, an apparatus and a system of claims 21,22,23 and 24 respectively. Although Shaughnessy teaches checking for accessibility (column 5 lines 10-22), Shaughnessy fails to explicitly teach wherein the step of automatically determining computer systems accessibility includes the step of pinging each of said computer systems. However, Johnson discloses that when diagnosing a network device over a network connection, Ping may be used to show that the

network device is accessible (column 1 lines 51-58 and column 7 lines 27,28). Johnson's statement of a network device being "Pingable" means that the Ping utility can be used to determine accessibility.

It would have been obvious for one of ordinary skill in the art to modify Shaughnessy by automatically determining computer systems accessibility includes the step of pinging each of said computer systems as per the teachings of Johnson because Ping is a well-known utility used by network administrators for testing and diagnosing accessibility of a network device over a network connection.

***In reference to claims 5,10,15 and 20,*** Shaughnessy teaches the a method, a program product, an apparatus and a system of claims 2,7,12 and 16 respectively (column 5 lines 1-30). Shughnessy fails to explicitly teach further including the step of automatically re-dispatching the command for execution to a computer system that failed to execute the command successfully and was corrected. However, it is common practice in the art that after an unsuccessful execution or reception of a command, that the command is resent in an attempt to successfully execute it.

### ***Conclusion***

13. The above rejections are based upon the broadest reasonable interpretation of the claims. Applicant is advised that the specified citations of the relied upon prior art, in the above rejections, are only representative of the teachings of the prior art, and that any other supportive sections within the entirety of the reference (including any figures, incorporation by references, claims and/or priority documents) is implied as being applied to teach the scope of the claims.
14. Applicant may not introduce any new matter to the claims or to the specification. For any subsequent response that contains new/amended claims, Applicant is required to cite its corresponding support in the specification. (See MPEP chapter 2163.03 section (I.) and chapter 2163.04 section (I.) and chapter 2163.06)

15. In formulating a response/amendment, Applicant is encouraged to take into consideration the following prior art made of record but not relied upon, as it is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMY M. OSMAN whose telephone number is (571)272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/  
Primary Examiner (Temp), Art Unit 2457

November 4, 2008